

IN THE COURT OF APPEALS  
STATE OF ARIZONA  
DIVISION TWO

FILED BY CLERK

APR 18 2007

COURT OF APPEALS  
DIVISION TWO

THE STATE OF ARIZONA,	)	
	)	
Respondent,	)	2 CA-CR 2006-0430-PR
	)	DEPARTMENT A
v.	)	<u>MEMORANDUM DECISION</u>
	)	Not for Publication
GLENN WHEDBEE,	)	Rule 111, Rules of
	)	the Supreme Court
Petitioner.	)	
_____	)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-19906

Honorable Jane L. Eikleberry, Judge

REVIEW GRANTED; RELIEF DENIED

Glenn Whedbee

Tucson  
In Propria Persona

V Á S Q U E Z, Judge.

¶1 Following a 1988 jury trial, petitioner Glenn Whedbee was convicted of first-degree murder for killing a fellow inmate. He was sentenced to a life term of imprisonment. We affirmed Whedbee's conviction and sentence on appeal, *State v. Whedbee*, No. 2 CA-CR 89-0398 (memorandum decision filed Dec. 19, 1989), and denied relief from the trial court's denial of his first petition for post-conviction relief, filed thirteen years after his appeal.

*State v. Whedbee*, No. 2 CA-CR 2004-0033-PR (decision order filed Apr. 26, 2005). Whedbee then filed his second post-conviction petition pursuant to Rule 32, Ariz. R. Crim. P., 17 A.R.S., which the trial court denied without conducting an evidentiary hearing. This petition for review followed. We will not disturb a trial court's ruling on a petition for post-conviction relief absent an abuse of discretion. *State v. Watton*, 164 Ariz. 323, 325, 793 P.2d 80, 82 (1990). We find no abuse here.

¶2 Whedbee raises numerous claims on review, none of which merits relief. Although the record before us apparently does not contain the entire petition for post-conviction relief, based on the portions of the petition that are in the record, the notice of post-conviction relief, the trial court's detailed minute entry ruling, and Whedbee's arguments on review, we are satisfied that we understand his claims. Whedbee raises the following issues: he is entitled to an evidentiary hearing because his claims were not precluded; his claim of ineffective assistance of trial counsel was not precluded because he could not have raised it on appeal; his Rule 32 petition contained evidence to support his claim that the state had used perjured testimony at trial; he is entitled to additional presentence incarceration credit; he is entitled to be resentenced based on the newly discovered evidence that he suffers from hepatitis C; and there is "newly discovered" evidence<sup>1</sup> related to his claim of third party culpability.

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<sup>1</sup>Although Whedbee calls this newly discovered evidence, it appears he intended to characterize it as a significant change in the law.

¶3 In its ruling denying the petition, the trial court found Whedbee's claims without merit or precluded under Rule 32.2(a) because he could have raised them on appeal or in his first Rule 32 petition and he did not establish that they fell under any of the exceptions to preclusion set forth in Rule 32.2(b). We agree with the trial court's findings, and we adopt the trial court's thorough minute entry that clearly identified Whedbee's arguments and ruled on them in a manner that is legally correct and factually supported by the limited record before us. As such, we see no need to revisit the court's ruling. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993).

¶4 Therefore, although we grant the petition for review, we deny relief.

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GARYE L. VÁSQUEZ, Judge

CONCURRING:

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JOHN PELANDER, Chief Judge

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JOSEPH W. HOWARD, Presiding Judge